**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.5672 of 2005

Dated: 04.01.2007

Between:

Devella Mahadev.

**..... PETITIONER**

AND

The State of Andhra Pradesh, rep.by the District Collecgor, Karimnagar, and others.

**.....RESPONDENTS**

**THE HON'BLE SRI JUSTICE V.V.S. RAO**

WRIT PETITION No.5672 of 2005

ORDER:

The petitioner filed instant writ petition assailing the notice dated 22.02.2005 in file bearing No.A/1226/2004, whereunder the petitioner and respondents 3 to 5 were requested by respondent No.2, namely, the Revenue Divisional Officer(RDO) to attend the enquiry on 05.03.2005 at 3.00 p.m. in his office.

It is the case of the petitioner that the name of the petitioner's father Devella Ramanna was shown as pattadar in respect of the land admeasuring Ac.0.31 guntas in survey No.88 situated at Manthani, Karimnagar, in the Kasra Pahani for the year 1954-1955 as well as the other records. He claims to have succeeded to the property after death of his father. He allegedly filed a declaration under the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (the Act, for brevity) showing this land also. The father of respondents

3 to 5, namely, Devella Rajeshwar Rao, also filed a declaration under the Act, but he did not show the land in survey No.88 in the declaration. It is also alleged that when an extent of Ac.0.05 guntas in survey No.88 was acquired by the Government under award No.B/12/89 dated 10.04.1991, compensation was paid to the petitioner. With regard to the balance of land, the petitioner allegedly executed registered gift deed dated 15.03.2004 in favour of his three daughters. However, respondent No.3 filed an application before RDO for correction of entries in the revenue records. By order dated 17.01.2004, RDO rejected the said claim and advised to approach the civil Court. However, respondent No.3 again approached RDO who is proposing to conduct enquiry.

This Court, while ordering notice before admission on 21.03.2005, stayed further proceedings pursuant to the impugned notice dated 22.02.2005. Respondents 3 and 5 filed W.V.M.P.No.3183 of 2005. However, having regard to the nature of the relief sought, the matter is heard finally and is being disposed of at the admission stage.

The contesting respondents in their counter-affidavit, while denying the petition averments, alleged that the land in question in survey No.88 was originally owned by Devella Vissaiah, their grand father, who had two sons, namely, Devella Ramanna, father of the petitioner, and Devella Mahadev. Devella Mahadev had two sons, namely, Devella Rajeshwar Rao @ Rajanna, father of respondents 3 to 5, and Devella Madhukar. Therefore, respondents 3 to 5 also have equal right in the said land. It is alleged that in 1957, ryotwari patta passbook was issued showing the name of the father of respondents 3

to 5. It is also alleged that in 1985 when the land admeasuring Ac.0.05 guntas was acquired, the name of the father of respondents 3 to 5 was also shown in the notification under Section 4(1) of the Land Acquisition Act, 1894. The respondents 3 to 5 also filed O.S.No.11 of 2004 on the file of the Court of the Senior Civil Judge, Manthani, for partition and separate possession of the land in survey No.88, which is still pending. As RDO issued only notice of enquiry, this writ petition is not maintainable.

The learned counsel for the petitioner submits that when respondents 3 to 5 are agitating for their rights in the civil Court, it is not competent for RDO to conduct enquiry. The learned counsel for respondents 3 to 5, **per contra**, submits that when a notice of enquiry was given, which is in the nature of a show-cause notice, the petitioner can as well plead his case before RDO. The petitioner and respondents 3 to 5 are claiming a share in the land in survey No.88. The suit filed by the respondents 3 to 5, being O.S.No.11 of 2004, for partition and separate possession is also pending. It is no doubt true that when a civil suit is pending for declaration of title, a recording authority or revenue authority cannot interfere in the matter. This is, however, cannot be a ground to prohibit RDO from conducting preliminary enquiry. It is always open to the parties to the enquiry to produce necessary evidence and seek postponement of enquiry by RDO. Liberty is reserved to the parties to do so. As and when the petitioner and respondents 3 to 5 produce necessary documents before RDO, he may pass appropriate orders keeping in view the fact that respondents 3 to 5 filed O.S.No.11 of 2004 for partition and separate possession.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

04th January, 2007

Note: Issue CC in one week.

B/o

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